

# **EXHIBIT 1: A MEDICAL EMERGENCY NOT CRIMINAL by BRIAN HILL'S FAMILY (7-16- 2022) – By Kenneth Forinash and Stella Forinash for**

attached to: “EXHIBIT LIST IN SUPPORT OF  
PETITIONER’S REPLY TO GOVERNMENT’S RESPONSE  
(DKT. #319) TO MOTION UNDER 28 U.S.C. § 2255 TO  
VACATE, SET ASIDE, OR CORRECT SENTENCE (DKT.  
#291)”; and in support of “PETITIONER’S REPLY TO  
GOVERNMENT’S RESPONSE (DKT. #319) TO MOTION  
UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR  
CORRECT SENTENCE (DKT. #291)”  
by Brian David Hill

Case no. 1:13-cr-435-1; civil no. 1:22-CV-00074

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**A MEDICAL EMERGENCY NOT CRIMINAL by BRIAN HILL'S FAMILY (7-16-2022)**

Police receive a call at 4 in the morning. A 28 year old man was running down a walking trail in Martinsville, VA in the nude at 4 AM in the morning. Why? Was he intentionally trying to be obscene or was this an emergency? Police find out that he is on the sex registry and is on probation. He is treated like a criminal, arrested and put in jail. The judge ignores his mom's testimony about carbon monoxide poisoning in their apartments and how this affected both of them for 11 months at the time of this incident. Carbon monoxide poisoning was discovered 4 months after this incident by a chimney expert. The judge ignores his probation officer's testimony about how Brian has autism, OCD and is a brittle diabetic, has known Brian for 4 years as his probation officer. This probation officer told the court Brian has been respectful of him for those 4 years and continued talking about being innocent of the first crime that put him on the sex registry. The judge takes the word of the police over the testimony of Brian's Mom & medical caretaker and Brian's federal court appointed probation officer who has known Brian and worked with Brian for 4 years and has copies of his medical records. Due to no investigation being done by the police department of Martinsville, VA and no medical test being done at the hospital that night, Brian, his family and the court does not know what his glucose was, what his carbon monoxide levels were from 11 months of carbon monoxide in his system or if there were drugs in his system. Did Brian leave the house alone or was he removed from his house and forced to be in the nude by someone else? Did he leave the house with nothing and was given the backpack and pink camera by someone he met on the walking trail that night? Looking at the hospital records to try to get some answers, Brian and his family found out that even though the hospital records clearly showed that Brian had diabetes requiring insulin and autism, there were no glucose results or no blood test results at all to tell us what his carbon monoxide level was or if there were any drugs or alcohol in his system. The hospital emergency room only kept him there for an hour, not enough time to

even tell what his mental condition was. Did Brian take those photos of himself or did someone else take them? Was this a result of his autism? Did this have something to do with his brittle diabetes? Did this have something to do with his OCD?

Brian and his family discovered at the probation hearing that the police who arrested Brian did not know that Brian had diabetes or OCD. He did tell the court that Brian told him that he had autism. He admitted to the court that he didn't have a lot of training in autism. Apparently Americans with disabilities is not important in this court because nothing was brought out about what the police did to aid Brian after he found out that Brian had autism nor was he asked if he believed that Brian had autism. (1:13-cr-00435) Document 307 Attachments 1-10 Apr. 20, 2022)

This causes Brian's family and should cause the court to ask some important questions for justice to be done. Here is a person with autism, brittle diabetes with seizure history and OCD walking & running on a walking trail miles from his home by himself in the nude for hours, is this normal or abnormal behavior? Why did this arresting police officer not know that Brian had diabetes requiring insulin when glucose is high or glucose tabs when it is low? Did he do an investigation? How can a person with a medical history of type 1 diabetes (brittle diabetes) with seizure history since the age of 2, PDD diagnosis since the age of 3, autism spectrum disorder diagnosis since the age of 4 suddenly be "Medically cleared"? Why did this arresting police officer not know that Brian had type 1 diabetes requiring insulin or glucose tabs? Why did he not know that Brian had OCD? Did Brian not tell him? Was Brian so far out of it mentally that night that he did not even know that he was diabetic himself? Where was the glucose monitor that Brian always takes with him when he leaves his house to go walking? Where were the emergency glucose tabs that he always keeps in his camera bag when he leaves his house? Where were his insulin pens he always takes with him if his blood glucose is high? Where were his emergency cards telling others that he has diabetes



requiring insulin, autism and OCD? Where was his germ x hand sanitizer that he keeps with him at all times at home and away from home due to his OCD?

Even the prosecuting attorney said he was out there in the nude "for whatever reason".

Was Brian in any condition to actually take those photos of himself? Where was Brian's camera bag that he always takes with him when he leaves his house? Police said he had a back pack (not a camera bag). Brian's family saw the back pack. Brian's mom did not recognize it as belonging to Brian. Brian's grandparents noticed that it was smaller than Brian's backpacks are. Where did Brian get the backpack from? The camera the court showed at the hearing was a small pink camera. It was not Brian's camera. Brian always takes a large black camera with him, extra batteries, extra sd cards, tripod, etc. Where were his camera, the batteries & extra sd cards and tripod? The police testified that Brian was wearing a ski cap. Brian never wears that type hat. Where did he get that cap? Every time Brian leaves the house, he is either wearing no hat or wearing a baseball type hat. We have thousands of photos taken of Brian David Hill from 2008-2022 of Brian with a large camera bag, large black camera, large backpacks, wearing a baseball cap or no cap at all. You will not find any photos of Brian with a pink camera or wearing a ski (cap) or with that particular backpack that he had that night. Brian's family have never seen Brian take "selfies" of himself, only photos of flowers, animals, scenery (nature photos). How can police and the courts take a medical emergency (or perhaps that night Brian was a victim of a criminal act) and turn it into a crime he committed with jail, prison and 4 more years of probation? This court has not proven intent, and in every crime, there has to be "intent".

ALL this court has proven is that a man age 28 who has brittle type 1 diabetes, seizure history, autism spectrum disorder and obsessive compulsive disorder was running down a walking trail in the nude in the middle of the night while his mom who is his paid care taker (paid for 5

hours per day 7 days a week) by a Virginia Medicaid waiver to assist this disabled man was at home asleep as was also his 2 emergency medical backups (his grandparents) were in 2 different homes asleep and not aware that Brian was out of the house by himself without any medical supplies at all carrying a backpack and a camera that didn't belong to him and wearing a cap that was not his (many photo proofs). The court can't explain why he was out there like that. He was on a walking trail (not a park – no play equipment) miles from his home. What were his intentions? The court did not prove if he had intentions to do this or what his intentions were. (1:13-cr-00435) Document 307 Attachments 1-10 Apr. 20, 2022)

Constitution? What does the constitution say? **Section. 2.** “The Trial of all Crimes, except in Cases of Impeachment, shall be by jury; and such Trial shall be held in the State where the said Crimes shall have been committed”.

[https://billofrightsinstitute.org/primary-sources/constitution?qclid=EAlalQobChMltIHBs5z9-AIVoubjBx1cnwflEAAYASAAEgJkfvD\\_BwE](https://billofrightsinstitute.org/primary-sources/constitution?qclid=EAlalQobChMltIHBs5z9-AIVoubjBx1cnwflEAAYASAAEgJkfvD_BwE)

**Amendment VI:** “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation;” This happened in Virginia not North Carolina. Probation officer was in Virginia, police officer was in Virginia, hospital is in Virginia, house with carbon monoxide was in Virginia and Brian lived in and is a citizen of Virginia.

**Amendment VIII:** “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted” Months in jail or prison, 4 more years of probation for someone with brittle diabetes, seizures, autism and OCD who was exposed to carbon monoxide poisoning in his home for 11 months and was set up with child porn on his computer in 2012 and innocent of the first crime is cruel and unusual punishment.

**Section 1.** All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Ninth Amendment of the United States Constitution states that the federal government doesn't own the rights that are not listed in the Constitution, instead, they belong to the people.

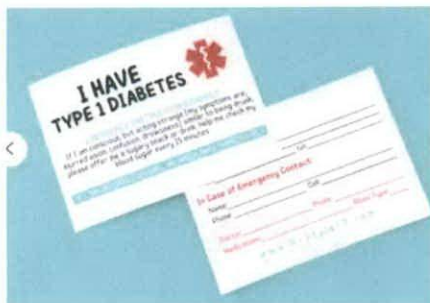


The Tenth Amendment says that **the Federal Government only has those powers delegated in the Constitution**. If it isn't listed, it belongs to the states or to the people. Virginia now has a law that if a person has autism spectrum disorder, that must be taken in consideration in all criminal trials. This deals with "intent". Under Virginia Code 19.2-303.6. Autism Legal Rights.



Brian Hill 9/12/2018 Black camera, baseball hat – camera bag - Brian in May, 2018 – black camera. Camera bag, baseball hat

Cards from Amazon, etc. similar to what Brian would carry but according to the arresting police officer, Brian did not have any of these on that night. His clothes were in the small backpack he was carrying that his mom did not recognize.



(1:13-cr-00435) Document 307 Attachments 1-10)



Amazon photo for diabetic supplies (insulin pens, glucose meter, test strips)



BOVKE Travel Case for Diabetic Supplies, Storage Case for Insulin Pens, Glucose Meters, Test Strips...



Walgreens Glucose Tablets Orange -...

\$1.79



ReliOn Fruit Punch Glucose T...  
walmart.com



GERM X Hand Sanitizer.



Accessories at Ritz Camera. Free ...  
ritzcamera.com

(1:13-cr-00435) Document 307 Attachments 1-10 Apr. 20, 2022)



Brian's camera bag in 2009



Brian getting ready to tour caverns in VA 7/13/2022

Brian did not have any emergency type 1 diabetic or autism cards with him, no emergency medical supplies, no camera supplies, red camera – not his large black camera he always takes with him. Had a small back pack, not his camera bag. He was wearing a ski cap, not his baseball cap. He did not tell the police or the hospital that he had type 1 brittle diabetes. He left his home in the middle of the night without his mom (medical caretaker), was walking miles from home on a walking trail without any clothes on his body, was sitting on benches – Brian is super conscious of germs (OCD), had no hand sanitizer with him. He was walking around where there are snakes & wild animals without anything to protect him. He had 2 flashlights. Did they belong to him or someone else? We don't know. Does the court know? There were no police investigations. Police didn't even talk to Brian's family. We thought we would find some answers from the hospital records. We found out that all blood tests were deleted, and the hospital had no records of Brian's blood test. We don't know if Brian's blood glucose was normal, high or low because even though the hospital has on record that he is type 1 diabetic who uses insulin, has autism & OCD. Hospital did no blood glucose test at all.

How can any court under these circumstances say that he is guilty of Indecent exposure? Every person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a Class 1 misdemeanor. INTENTIONALLY? What was his INTENT? Is a medical emergency considered "INTENT"? Does this medical emergency require months in jail and 4 more years probation? (1:13-cr-00435) Document 307 Attachments 1-10 Apr. 20, 2022)